IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26/09/2003

Coram

The Honourable Mr. Justice P.K. MISRA

Writ Petition No.40080 of 2002

S. Venkatesan .. Petitioner

-Vs-

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

2. The Chief Engineer,
(Employees Unit),
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

3. The Superintending Engineer,
Electricity Distribution circle,
Tamil Nadu Electricity Board,
Pudukkottai. .. Respondents

Writ Petition filed under Article 226 of the Constitution of
India for the issue of a Writ of Certiorarified Mandamus as stated therein.

For petitioner: Mr. S. Nagarajan

For respondents: Mr. V. Radhakrishnan

:O R D E R

Heard the learned counsel appearing for the parties.

2. The father of the petitioner was an employee under the
Tamil Nadu Electricity Board and he died while in harness. At that stage, the
present petitioner was a minor and an application was filed by the mother of
the petitioner seeking appointment on the ground of compassionate principles.
However, the following communication was made at that stage:
"We regret to inform with regard to the request to provide an
employment on compassionate ground by one Venkatesan, the son of the deceased
employee C. Sundaram, former Wire Man, cannot be considered till he attains
the age of 18 years as per the Tamil Nadu Electricity Board Rules".

Thereafter, the petitioner obtained majority and further application was made. Such application has been turned down on the ground that the application has not been filed within three years from the date of death of the deceased as envisaged under the scheme.

3. The petitioner has filed this writ petition contending that, since an application had already been filed, which was not considered at that stage because the present petitioner was a minor at that stage, rejection of the subsequent application is arbitrary.

4. On behalf of the respondents, a counter affidavit has been filed justifying the rejection.

5. After hearing the learned counsel appearing for the parties, and after going through the relevant documents, I am not in a position to sustain the impugned order passed by the respondents. Soon after the death of the employee, an application had been filed by the mother of the present petitioner. It is, of course, true that at that stage, the petitioner was a minor who could not have been employed and rightly, the communication was issued on 4.11.1998 stating that such application cannot be considered till he attains the age of 18 years as per the Tamil Nadu Electricity Board Rules. In other words, it must be taken that the application had been filed within three years and such application had been kept pending because the petitioner was a minor at that stage. The subsequent application must be treated as a reminder and cannot be considered as a fresh application. Even in the previous communication, the application had not been rejected but it was only stated that the application cannot be considered till the petitioner attains the age of 18 years. In other words, after the present petitioner became major, his prayer should have been considered.

6. In such view of the matter, the rejection of the subsequent application which was obviously by way of reminder, is untenable. Accordingly, the writ petition is allowed and the respondents are directed to consider the question of appointment of the present petitioner on compassionate ground in accordance with the scheme as expeditiously as possible. No costs.

Index: Yes
Internet: Yes

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To

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